

## DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: KARL KLEIN  
DEPUTY ATTORNEY GENERAL**

**DATE: APRIL 17, 2013**

**SUBJECT: IONEX COMMUNICATIONS NORTH'S CPCN APPLICATION  
CASE NO. INX-T-13-01**

On January 9, 2013, Ionex Communications North, Inc. dba Birch Communications (the "Company") applied to the Commission for a Certificate of Public Convenience and Necessity ("CPCN") authorizing the Company to provide resold local exchange and interexchange telecommunications service to residential and business customers in Idaho. The Company filed an Amended Application on April 9, 2013, and an amended Application Exhibit E (proposed price list) on April 12, 2013.

The Company says it is a South Dakota corporation that is authorized to do business in Idaho. It is headquartered in Kansas City, MO, and is a wholly owned subsidiary of the Georgia corporation, Birch Communications Inc. ("BCI"). Amended Application at 2.<sup>1</sup> The Company says BCI and its subsidiaries provide telecommunications services to business and residential customers in 38 states. *Id.*

According to the Company, BCI is buying assets and customer accounts from Covista, Inc., an authorized local exchange carrier in Idaho. *Id.* at 1. The Company plans to serve customers currently served by Covista. It would provide service in the territories of, and compete with, incumbent local exchange carriers ("ILECs") Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc. It also would compete with competitive local exchange carriers like XO, TW Telecom, and Level 3. *Id.* at 3.

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<sup>1</sup> The Company says it is owned 100% by Birch Telecom, Inc., that BCI owns 100% of Birch Telecom, Inc., and that Birch Communications Holdings, Inc. owns a 100% voting and equity interest in BCI. Birch Holdings is a Georgia corporation whose principal business is telecommunications holdings. *Id.* at 2.

The Company will provide telecommunications service in Idaho as a facilities-based provider, a reseller, or some combination thereof. *Id.* at 1, 3. It has no plans to place facilities or switches in Idaho, but rather will serve Idaho customers using its facilities and switches in other parts of its service territory. *Id.* The Company says it also will buy unbundled network elements (“UNEs”) or UNE-replacement services from carriers ILECs like Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc. The Company plans to use a mix of its own facilities and services purchased from ILECs to provide local exchange and interexchange services in Idaho. *Id.*


The Company says it has adequate financial resources to provide the proposed services. *Id.* at 4. Further, it has an existing interconnection agreement with Qwest Corporation dba CenturyLink QC and Frontier Communications Northwest Inc., or their affiliates, and it will seek to add Idaho to those agreements or enter into new agreements with those ILECs as necessary. *Id.* The Company says it begin serving Covista customers as soon as it receives the necessary regulatory approvals. *Id.* at 3. The Company says it has reviewed and will comply with Commission rules. *Id.* at 4.

#### **STAFF RECOMMENDATION**

Staff recommends that the Commission process the Company’s Application under Modified Procedure with a 21-day comment period.

#### **COMMISSION DECISION**

Does the Commission wish to process the Company’s Application under Modified Procedure with a 21-day comment period?



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Karl Klein  
Deputy Attorney General

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